



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Bulletin PC-48
December 20, 2000

TO: ALL INSURANCE COMPANIES LICENSED TO WRITE
AUTOMOBILE LIABILITY INSURANCE

SUBJECT: MINIMUM PROVISIONS FOR AUTOMOBILE LIABILITY
INSURANCE POLICIES COVERING MOTOR VEHICLES

The Regulations of Connecticut State Agencies §38a-334-1 to 38a-334-10 governing the minimum provisions for automobile liability insurance policies covering motor vehicles are amended for policies effective on or after November 1, 2000.

In accordance with §38a-334-7 (1), effective November 1, 2000, automobile policies that provide coverage for medical payments shall be primary over any other health insurance, including coverage provided by plans subject to ERISA.

A copy of the revised regulations is attached.


Susan F. Cogswell
Insurance Commissioner

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

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NAME OF AGENCY

INSURANCE DEPARTMENT

Concerning

SUBJECT MATTER OF REGULATION

MINIMUM PROVISIONS FOR AUTOMOBILE LIABILITY
INSURANCE POLICIES COVERING MOTOR VEHICLES

SECTION _____

Section 1. Sections 38a-334-1 and 38a-334-2 inclusive of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 38a-334-1. Required areas of coverage.

(a) Policies shall contain at least the following coverages:

- (1) Bodily injury liability and property damage liability;
- (2) [basic reparations benefits for private passenger motor vehicles as defined in § 38a-363(g) of the general statutes and as may be from time to time amended, but only with respect to such vehicles, if the policy provides insurance for such vehicles;
- (3) protection against uninsured AND UNDERINSURED motorists as [hereinafter] described IN SECTION 38a-334-6.

(b) Any policy which, under a separate coverage, undertakes to pay, irrespective of fault, medical expense resulting from bodily injury sustained in motor vehicle accidents, shall provide insurance[as hereinafter described] for medical payments AS DESCRIBED IN SECTION 38a-334-7.

Sec. 38a-334-2. Definitions

As used in sections 38a-334-1 to [38a-334-8] 38a-334-9, inclusive:

(a) ["Basic reparations benefits" means the same as basic reparations benefits defined in section 38a-363(k) of the general statutes;

(b) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom;

[(c)](b) "Motor [Vehicle] VEHICLE" means private passenger motor vehicle as defined in subsection [(g)] (e) of [Section] SECTION 38a-363 of the General Statutes; commercial motor vehicle as defined in [subdivision (9) of] [Section] SECTION 14-1 of the General Statutes; motorcycle, as defined in [subdivision (29) of Section] SECTION 14-1 of the General Statutes; [public service motor vehicles, as defined in subdivision (44) of Section 14-1 of the General Statutes] MOTOR VEHICLE USED TO TRANSPORT PASSENGERS FOR HIRE, motor vehicle in livery service, as defined in [Section] SECTION 13b-101 of the General Statutes; and vanpool vehicle, as defined in [subdivision (63) of Section] SECTION 14-1 of the General Statutes;

[(d)](c) "Property damage" means injury to or destruction of tangible property, including loss of use thereof.

[All references in these regulations to sections of the general statutes of Connecticut shall mean and include the statutory provision in effect on the date these regulations become effective and as the statutory provision may be thereafter amended from time to time.]

Sec. 2. Section 38a-334-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 38a-334-4. Exceptions

These regulations do not apply to the insurance afforded under any policy:

- (1) to the extent that the insurance afforded exceeds the limits specified in subsection (a) of [§] SECTION 14-112 of the [general] GENERAL [statutes] STATUTES [and, where applicable, § 38a-365 of the general statutes] or (2) if the policy contains an underlying insurance requirement or provides for a retained limit of self-insurance equal to or greater than the limits specified in said subsection (a) of [§]SECTION 14-112 [and, where applicable, § 38a-365].

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Sec. 3. Subsection (f) through (g) inclusive of section 38a-334-5 of the Regulations of Connecticut State Agencies are amended to read as follows:

(f) Subrogation. The insurer shall be subrogated to any rights of recovery of the insured against third parties except as restricted by section [38a-369] 38a-336b OF THE GENERAL STATUTES.

(g) Other insurance. The policy may provide for proration of loss with other insurance or may provide that insurance for persons or organizations other than the named insured does not apply if such person or organization has other insurance applicable to the loss with limits of liability not less than those specified in subsection (a) of section 14-112 [and, where applicable, section 38a-365] of the [general] GENERAL [statutes] STATUTES.

Sec. 4. Sections 38a-334-6 through 38a-334-9, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 38a-334-6. Minimum provisions for protection against uninsured OR UNDERINSURED motorists

(a) Coverage. The insurer shall undertake to pay on behalf of the insured all sums which the insured shall be legally entitled to recover as damages from the owner or operator of an uninsured OR UNDERINSURED motor vehicle because of bodily injury sustained by the insured caused by an accident involving the uninsured OR UNDERINSURED motor vehicle. This coverage shall insure the occupants of every motor vehicle to which the bodily injury liability coverage applies. "Uninsured motor vehicle" includes a motor vehicle insured against liability by an insurer that is or becomes insolvent.

(b) Arbitration. The insurance may provide but not require that the issues of liability as between the insured and the uninsured OR UNDERINSURED motorist, and the amount of damages, be arbitrated. The insurer may provide against being bound by any judgment against the uninsured OR UNDERINSURED motorist.

(c) Exclusions. The insurer's obligations to pay may be made inapplicable:

(1) To any claim which has been settled with the uninsured motorist without the consent of the insurer;

(2) if the uninsured OR UNDERINSURED motor vehicle is owned by

(A) the named insured or any relative who is a resident of the same household or is furnished for the regular use of any of the foregoing,

(B) a self insurer under any motor vehicle law, or

(C) any government or agency thereof;

(3) to pay or reimburse for workers' compensation or disability benefits.

(d) Limits of liability.

(1) The limit of the insurer's liability may not be less than the applicable limits for bodily injury liability specified in subsection (a) of section 14-112 of the general statutes, except that the policy may provide for the reduction of limits to the extent that damages have been

[(1)] (A) paid by or on behalf of any person responsible for the injury,

[(2)] (B) paid or are payable under any workers' compensation [or disability benefits] law, or

[(3)] (C) paid under the policy in settlement of a liability claim.

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(2) The policy may also provide that any direct indemnity for medical expense paid or payable under the policy [or any amount of any basic reparations benefits paid or payable under the policy]will reduce the damages which the insured may recover under this coverage.[and]

(3) [a]Any payment under these coverages shall reduce the company's obligation under the bodily injury liability coverage to the extent of the payment.

(4) THIS SUBSECTION SHALL NOT APPLY TO UNDERINSURED MOTORIST CONVERSION COVERAGE EXCEPT THAT NO PAYMENT UNDER A POLICY PROVIDING UNDERINSURED MOTORIST CONVERSION COVERAGE SHALL DUPLICATE PAYMENT FROM ANY OTHER SOURCE.

(e) Recovery over. WITH RESPECT TO UNINSURED MOTORIST COVERAGE, [The] THE insurer may require the insured to hold in trust all rights against third parties or to exercise such rights after the insurer has paid any claim, provided that the insurer shall not acquire by assignment, prior to settlement or judgment, its insured's right of action to recover for bodily injury from any third party.

Sec. 38a-334-7. Minimum provisions for medical payments

(a) Coverage. The insurer may undertake to pay reasonable medical expense incurred within one year from the date of the accident for persons who sustain bodily injury while occupying a motor vehicle designated as the subject of the coverage by specific description or appropriate reference.

(b) Exclusions. The insurer's obligation to pay may be made inapplicable:

(1) To injury to any person while he is employed or otherwise engaged in the business or occupation of selling, servicing, repairing, parking or storing motor vehicles;

(2) to injury resulting from insurrection, rebellion, revolution or war;

(3) to employees of any insured injured in the course of their employment;

(4) to the use of a motor vehicle as a public or livery conveyance or while located for use as a residence or premises;

(5) to bodily injury resulting from the radioactive, toxic, explosive or other hazardous properties of source, special nuclear or byproduct material, each as defined in the Atomic Energy Act of 1954, as amended;

(6) to injury arising out of the use of

(i) a farm-type tractor or other equipment designed for use principally off public roads, while not upon public roads,

(ii) a vehicle operated on rails or crawlertreads, or

(iii) a vehicle while located for use as a residence or premises.

(c) Non-duplicating provisions.

(1) The insurer may provide for proration of benefits with other motor vehicle medical payments insurance [and] BUT FOR POLICIES EFFECTIVE ON OR AFTER NOVEMBER 1, 2000, COVERAGE PROVIDED PURSUANT TO THIS SECTION SHALL BE PRIMARY OVER ANY AMOUNT OF OTHER HEALTH INSURANCE AS DEFINED IN SECTION 38a-469 OF THE GENERAL STATUTES, OR ANY OTHER HEALTH COVERAGE, INCLUDING BUT NOT LIMITED TO EMPLOYEE WELFARE PLANS SUBJECT TO THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, 29 U.S.C. SECTION 1001, *ET SEQ.*, HEALTH CARE PLANS PROVIDED BY COLLECTIVELY BARGAINED ARRANGEMENTS, HEALTH CARE PLANS PROVIDED FOR EMPLOYEES OF THE UNITED STATES GOVERNMENT AND THEIR DEPENDENTS, PART A OR PART B OF TITLE XVIII OF THE SOCIAL SECURITY ACT, TITLE XIX OF THE SOCIAL SECURITY ACT, MEDICAL CARE PROGRAMS OF THE INDIAN HEALTH SERVICE OR OF A TRIBAL ORGANIZATION AND POLICIES ISSUED BY THE HEALTH REINSURANCE ORGANIZATION;

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[(1)] (2) a provision offsetting the amount paid for medical expenses against any amount payable under the bodily injury liability coverage of the policy may be included;

[(2)] (3) a provision for subrogation or a lien upon any recovery from a person legally responsible for the injury may be included; [and]

[(3)] (4) the insurance may be written subject to a deductible stated as a dollar amount [or the amount of other applicable insurance, or government or private indemnity paid or payable on account of the injury;] provided an appropriate reduction in the rate shall be made in the premium structure[.]; AND

(5) IN NO EVENT SHALL THE TOTAL AMOUNT OF RECOVERY FOR MEDICAL EXPENSES FROM ALL SOURCES EXCEED THE TOTAL OF THE INSURED'S MEDICAL EXPENSES FOR BODILY INJURY SUSTAINED WHILE OCCUPYING A MOTOR VEHICLE.

[(d) Subsections (a) through (c) above shall not apply to private passenger motor vehicles.]

Sec. 38a-334-8. General provisions

(a) Policy period: Territory. Policies shall provide coverage during the period the policy is in effect and within the territorial limits of the United States and Canada or, as regards private passenger automobiles only, between ports thereof.

(b) Conditions. (1) A policy may contain in substance the following conditions:

(A) A provision relating to the computation and payment of premium;

(B) a provision that written notice of accident, claim or suit is required; and that copies of any demand or legal process against the insured, the insurer or any third party shall be forwarded immediately to the insurer;

(C) a provision requiring a claimant to benefits under [basic reparations benefits,] medical payments or protection against uninsured AND UNDERINSURED motorists coverage to submit to the insurer written proof of claim, and requiring the injured person to submit to physical examinations and to furnish medical reports and records;

(D) a provision requiring the insured to assist and cooperate with the insurer;

(E) a provision that no action shall lie against the insurer until all the terms of the policy have been complied with or, under the liability coverages, until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the insurer, and a further provision that the insurer shall not be joined or impleaded in any action against the insured brought to determine his liability;

(F) a provision that the insurer's consent is necessary to any assignment of interest under the policy;

(G) a provision that the insurer issues the policy in reliance upon the declarations of the named insured and that the policy contains all agreements between the named insured and the insurer and any of its agents relating to the insurance;

(H) a provision relating to the insurer's own method of doing business.

(2) A policy must contain in substance the following conditions:

(A) a provision that bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

(B) a provision that the terms of the policy may not be waived or changed except as stated in the policy;

(C) a provision in a policy AS defined in SECTION 38a-341 of the [general] GENERAL [statutes] STATUTES limiting the company's rights to terminate insurance on private passenger motor vehicles as provided under SECTION 38a-323, AND SECTIONS 38a-341 through 38a-346 of the [general] GENERAL [statutes] STATUTES [as amended by Public Act 86-156].

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Sec. 38a-334-9. [Effective date] STATUTORY REFERENCES

[Sections 38a-334-1 to 38a-334-8, inclusive, shall take effect as amended on June 1, 1986.] ALL REFERENCES IN SECTIONS 38a-334-1 to 38a-334-8, INCLUSIVE, OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES TO SECTIONS OF THE GENERAL STATUTES OF CONNECTICUT SHALL MEAN AND INCLUDE THE STATUTORY PROVISION IN EFFECT ON THE DATE THESE REGULATIONS BECOME EFFECTIVE AND AS THE STATUTORY PROVISION MAY BE THEREAFTER AMENDED FROM TIME TO TIME.

Sec. 5. The Regulations of Connecticut State Agencies are amended by adding a new section 38a-334-10 as follows:

(NEW) **Sec. 38a-334-10.** Effective date.

Sections 1 through 5, inclusive, shall take effect November 1, 2000.

Statement of Purpose: To amend the current regulations to eliminate the problem where an insured with both health coverage and medical payments coverage is unable to recover because both policies claim to be excess; to conform the regulation to changes in state statutes and to reconfigure certain sections to be more coherent.

Minprov107.doc

Be known that the foregoing:

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☒ Regulations ☐ Emergency Regulations

Are:

☐ Adopted ☒ Amended as hereinabove stated ☐ Repealed

By the aforesaid agency pursuant to:

☐ Section 38a-334 of the General Statutes.

☐ Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

☐ Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on December 7, 1999, of the notice of the proposal to:

☐ Adopt ☐ Amend ☐ Repeal such regulations

(If applicable): ☐ And the holding of an advertised public hearing on _____ day of _____ 19____

WHEREFORE, the foregoing regulations are hereby:

☐ Adopted ☐ Amended as hereinabove stated ☐ Repealed

Effective:

☐ When filed with the Secretary of the State.

(OR)

☐ The 1st day of November ~~19~~ 2000.

In Witness Whereof:

DATE

4/13/00

SIGNED (Head of Board, Agency or Commission)

[Signature]

OFFICIAL TITLE, DULY AUTHORIZED

Insurance Commissioner

Reviewed by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:

SIGNED

[Signature]

OFFICIAL TITLE, DULY AUTHORIZED

Assoc. Atty. General

☒ Approved

☐ Disapproved

☐ Disapproved in part, (Indicate Section Numbers disapproved only)

☐ Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes.

DATE

8/8/2000

SIGNED (Clerk of the Legislative Regulation Review Committee)

[Signature]

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE

SIGNED (Secretary of the State.)

BY

INSTRUCTIONS

- One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
- Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
- Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
- Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.

RECEIVED

AUG 18 2000

RECORDS & LEGISLATIVE SERVICES
SECRETARY OF THE STATE